

REMARKS

In the Official Action of November 18, 2004, Claims 1-9 were rejected under 35 U.S.C. §§102, 103 and 112. Claims 1-9 have been cancelled without prejudice herein and Claims 10-30 have been added as new claims. Also in the Official Action a new title was required, whereupon a new title of --A Combination of High Heeled Pumps With Footbeds Therefor-- is submitted by this Amendment.

The paragraph on page 1 commencing on line 18 has been amended so that it reads grammatically correctly to indicate that it is women's shoes or pumps that have heel heights of one inch and above.

In the Specification, a new paragraph is substituted for the one commencing on page 5, line 12, to insert an inadvertent omission in line 14 after the word "corresponds" whereby it is indicated the primary difference of selective footbeds relates to a portion of the footbed which corresponds to the arch of the foot and that adequate arch support is important for shoes because it distributes the weight of the foot not only on the ball of the foot but also on the arch. Accordingly, it is for this reason that for each size footbed, two or more different configurations are selectively available. The inserted material is taken from the parent Application, page 4, commencing on line 19. Clearly new matter is not involved.

The amendment to the Specification commencing on page 6 in line 21 is to correct an obvious clerical error to the effect that it is --Figure 2-- that is a side view of a woman's pump in accordance with the invention rather than "Figure 1." In the same assertion on line 10 of page 7, the grammatically correct --farther-- has been substituted for "further."

The new claims are similar to those which were cancelled except that, it is submitted, they are directed more clearly to the combination of the shoe which has a cradle-like

configuration to receive the wearer's heel, the cavity 17 being somewhat narrower than conventional as seen in Figure 1 and extending farther forward on the inside than is usual to embrace the calcaneus bone as indicted by reference 20 in Figures 2 and 3. In addition, it is set forth that the shoe is wider than usual in the toe portion so the toes are not squeezed thereby and further to emphasize that with the wearer's heel being firmly held in normal usage in the heel portion of the shoe in combination with the footbed, the wearer's foot is substantially restricted or prevented from moving forward which causes the toes to be squeezed that, in the long run, causes considerable physical defects in the wearer's feet.

The rejections under 35 U.S.C. §112 have been, it is submitted, overcome in the wording of the new claims.

Further, the applied references are not directed to the combination of shoes having the characteristics indicated above together with footbeds having the characteristics set forth. The rejection under 35 U.S.C. §102 is therefore clearly inappropriate. This is also the case with the rejections under 35 U.S.C. §103 inasmuch as they do not recite a combination which includes shoes as set forth in the claims submitted herewith and previously set forth, it is submitted, in the original claims. In addition, nothing has been cited which would teach or otherwise lead to the inventor's combination set forth in the Official Action.

Most inventions arise from a combination of old elements. Thus if every element of a claimed invention is found in the prior art, which in this case they have not been so found, that, in itself, would be insufficient to defeat patentability of the claimed invention as a whole. Rather to establish obviousness based on a combination of elements disposed in the prior art there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the Applicant. This is true even when the asserted obviousness is

based on a single prior art reference. Here, it is respectfully submitted, such a showing is entirely lacking.

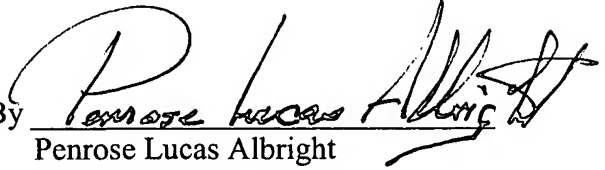
As amended herein, the Application has twenty-one (21) claims whereby a further fee of twenty-five dollars (\$25.00) is required and our check to cover same is submitted herewith. However, if in error, the Commissioner of Patents and Trademarks is authorized to debit or credit our Account No. 13-2000 as appropriate. A further copy of this Amendment is submitted herewith, if needed.

Further consideration and reexamination of this Application, in its amended form, is requested in view of 35 U.S.C. §132 and regulations in implementation thereof. It is submitted the Application in its amended form is free from ambiguity and avoids the references of record. It is further submitted the Examiner should have no difficulty in finding that the differences between the subject matter sought to be patented in this Application and prior art and usage within his expert knowledge are such that the subject matter as a whole would not have been obvious at the time the invention was made to persons having ordinary skill in the art to which the subject matter of this application pertains.

In view of the foregoing, the allowance of claims as now presented is earnestly solicited.

Respectfully submitted,

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